be charged to Deposit Account No. Deposit Account No. 50-1213. If a Petition for extension of time is needed, this paper is to be considered such Petition.

Claims 1-6 and 11-19 and 30-35 are pending in this application. Claims 20-29, which are drawn to non-elected subject matter, are cancelled herein. Applicant reserves the right to file divisional application(s) to the non-elected subject matter.

Upon review of the claims in the application, it appears that Aladar A. Szalay a joint inventor of claims in the parent application, is not a joint inventor of any of the claims pending in this application. This Continued Prosecution Application is filed to effect deletion of the erroneously named inventors in accord with MPEP 201.03, which states:

> Correction of inventorship may also be obtained by the filing of a continuing application under 37 CFR 1.53 without the need for filing a petition under 37 CFR 1.48, either in the application containing the inventorship error (to be abandoned) or in the continuing application. The continuing application must be filed with the correct inventorship named therein. The filing of a continuing application to correct the inventorship is appropriate if at least one of the correct inventors has been named in the prior application (35 U.S.C. 120 and 37 CFR 1.78(a)(1)). That is, at least one of the correct inventors must be named in the executed oath or declaration filed in the prior application, or where no executed oath or declaration has been submitted in the prior application but the names of the inventors were set forth in the application papers pursuant to 37 CFR 1.41(a)(1). Where the names of the inventors are to be added, correction of inventorship can be accomplished by filing a continuing application under 37 CFR 1.53(b) with a newly executed oath or declaration under 37 CFR 1.63(a). Where the name of an inventor(s) is to be deleted, applicant can file a continuing application with a request for deletion of the name of the inventor(s). The continuing application may be filed under 37 CFR 1.53(b) or 37 CFR 1.53(d).

Upon deletion of the individuals listed above, Guyla Hadlaczky, one of the originally named inventors, remains as the sole inventor.

Traverse of the Restriction Requirement as between groups I and II

In order for restriction to be proper, the restricted subject matter must be independent or distinct **AND** there must be a burden on the Office to examine the claims in the same application. It is respectfully submitted that in

this instance, there has been no demonstration that the groups are distinct.

With respect to requirement for restriction as between groups I and II, the Examiner urges that groups I and II are unrelated because the steps and reactants for practicing the methods are different. It is respectfully submitted that this statement is without basis and is incorrect.

Similarly, there is no evidence of record nor any basis to conclude that the claimed methods are different in plant and animal cells. As claimed, the method is generic to cells. The claims are directed to a method of amplification by:

introducing a nucleic acid molecule into a cell, wherein the nucleic acid molecule include a sequence of nucleotides that targets it to an amplifiable region of a chromosome in the cell;

growing the cell; and

identifying from among the resulting cells those that include a chromosome with a portion that has undergone amplification.

This essence of the method is the same whether the cell is a plant cell or an animal cell. Methods for introducing nucleic acids into plants and animal cells are well known and are unrelated to the novelty and unobviousness of the instantly claimed methods in which nucleic acid is targeted to am amplifiable regions of a chromosome, such as rDNA, the cell is grown, and the resulting cells are examined to identify those that include a chromosome with a portion that has undergone amplification. There is nothing to suggest nor reason to believe that steps and reactants are materially different. Chromosomes are chromosomes. The burden is on the Office to support the statements made in the restriction requirement.

MPEP 2144.03 states:

> The Examiner may take official notice of facts outside of the record which are capable of instant and unquestionable demonstration as being "well- known" in the art. In re Ahlert, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970). . . ..

The properties on which the Examiner is basing the requirement for restriction are not "capable of instant and unquestionable demonstration as being

Granted, the methods for introducing nucleic acid into plant cells and animal cells differ somewhat because plant cells have a cell wall. But methods for removing the cell wall to produce protoplasts are well known, and methods introducing nucleic acids into plant and animal cells are well known and are described in the application. The "invention" of the instant application is not the particulars of introducing nucleic acid into particular cells, but in the targeting of nucleic acid to a targeting of a nucleic to an amplifiable region of a chromosome, such as the pericentric heterochromatic region of a chromosome, such as by using rDNA, an origin of replication or an amplification promoting sequence (APS) as a targeting sequence.

Therefore, the restriction requirement should be withdrawn. Furthermore, as presently drafted, there is no way to get claim 1 issued. Thus, at most, the requirement should be recast as an election of species to provide a means to obtain allowance of the generic claim as filed.

* * *

In view of the above amendments and remarks, examination and allowance of the application are respectfully requested.

Respectfully submitted,
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US 097246930TP1

Creation date: 10-10-2003
Indexing Officer: TLO - TRUC P LO
Team: OIPEBackFileIndexing
Dossier: 09724693

Legal Date: 08-21-2002

No.	Doccode	Number of pages
1	CTMS	2

Total number of pages: 2

Remarks:

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